

Message Text

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SUBJECT: CASE REVIEW OF ALL AMERICAN PRISONERS IN MEXICO:
COMMISSIONED WORK

REF MEXICO 8585

1. TDY OFFICER SIMONSON RAISED WITH EMBASSY DEPARTMENT'S REQUEST FOR CLARIFICATION OF WHETHER COMMISSIONED WORK IS CONSIDERED A RIGHT OR A PRIVILEGE UNDER MEXICAN LAW, REFTEL REPORTED DISCUSSION WITH LIC. MARCIAL FFLORES REYES, SUBDIRECTOR OF PREVENCIÓN SOCIAL, ON COMMISSIONED WORK, INCLUDING QUESTION OF RIGHT/PRIVILEGE (PARA 3).

2. ACCORDING TO EMB'S UNDERSTANDING COMMISSIONED WORK COUNTS FOR REDUCTION OF SENTENCE ONLY IF PRISONER MAINTAINS GOOD CONDUCT. IN THOSE PRISONS IN WHICH NO ADEQUATE WORK PROGRAM EXISTS OR WHERE THERE ARE INSUFFICIENT JOBS, IT IS NOT POSSIBLE TO ASSIGN ALL PRISONERS COMMISSIONED WORK.

THUS COMMISSIONED WORK APPARENTLY CAN BE CONSIDERED A RIGHT UNDER MEXICAN LAW ONLY IN VERY QUALIFIED TERMS - SUBJECT TO GOOD CONDUCT BY THE PRISONER AND AVAILABILITY OF JOBS.

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3. PROVISIONS OF MEXICAN LAW GOVERNING COMMISSIONED WORK (LAW ESTABLISHING MINIMUM NORMS FOR SOCIAL REHABILITATION OF PRISONERS) DO NOT MENTION TERMS "RIGHT" OR "PRIVILEGE" BUT MAKE CLEAR THAT PRISONERS

WORK IS IMPORTANT PART OF TOTAL PROGRAM AIMED AT REHABILITATION AND REINTEGRATION INTO NORMAL LIFE. COPY FULL TEXT OF LAW AND COMMENTARIES (IN SPANISH) BEING POUCHED DEPT. INFORMAL TRANSLATTITION OF ARTICLES 10 AND 16 CONCERNING COMMISSIONED WORK ARE GIVEN BELOW.

ARTICLE 10. THE ASSIGNMENT OF INTERNEES TO WORK SHALL BE MADE TAKING INTO ACCOUNT THEIR DESIRE, VOCATIONS AND APTITUDE, HOW THE WORK WILL ASSIST THEM IN OBTAINING A JOB UPON RELEASE, THEIR CONDUCT AND THE POSSIBILITIES OF THE PRISON. WORK IN THE PRISONS SHALL BE ORGANIZED THROUGH A STUDY OF THE LOCAL ECONOMY, ESPECIALLY IN THE OFFICIAL MARKET, SO AS TO FAVOR THE CORRESPONDENCE BETWEEN THE DEMANDS OF THIS AND THE PRISON PRODUCTION, WITH A VIEW TOWARD THE ECONOMIC SELF-SUFFICIENCY OF THE ESTABLISHMENT. TO SECURE THIS LAST EFFECT, A PLAN FOR WORK AND PRODUCTION SHALL BE

CONSTRUCTED AND SHALL BE SUBMITTED FOR THE APPROVAL

OF THE STATE GOVERNMENT AND, IN ACCORDANCE WITH THE RESPECTIVE CONVENTION, OF THE DIRECTORATE GENERAL OF COORDINATED SERVICES.

PRISONERS SHALL PAY FOR THEIR SUSTENANCE IN THE PRISON SO THAT THEY PERCEIVE THIS AS A RESULT OF THE WORK THEY DO. SUCH PAYMENT SHALL BE BASED ON DISCOUNTS

CORRESPONDING TO AN ADEQUATE PROPORTION OF THE REMUNERATION,
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A PROPORTION WHICH SHALL BE UNIFORM FOR ALL OF THE PRISONERS IN THE SAME ESTABLISHMENT. THE REST OF THE

PRODUCT OF THE WORK SHALL BE DISTRIBUTED IN THE FOLLOWING MANNER: THIRTY PER CENT FOR THE PAYMENT OF DAMAGES (CASUED BY THE CRIME), THIRTY PERCENT FOR THE SUSTENANCE

OF THE ECONOMIC DEPENDENTS OF THE PRISONER, THIRTY PERCENT
FOR THE CONSTITUTION OF A SAVINGS FUND OF THIS (THE PRISONER?),
AND TEN PERCENT FOR MINOR EXPENSES OF THE PRISONER. IF THE
PRISONER WAS NOT SENTENCED TO PAY DAMAGES, OR THESE HAVE
BEEN COVERED, OR IF THE DEPENDENTS OF THE PRISONER
ARE NOT IN NEED, THE RESPECTIVE AMOUNTS SHALL BE APPLIED
IN EQUAL PARTS TO THE (OTHER) MENTIONED PURPOSES, EXCEPT
FOR THE LAST MENTIONED.

NO PRISONER MAY PERFORM FUNCTIONS OF AUTHORITY OR EXERCISE

WITHIN THE ESTABLISHMENT ANY EMPLOYMENT OR POSITION, EXCEPT
IN THOSE INSTITUTIONS BASED, FOR THE PURPOSE OF RE-
HABILITATION, UPON A REGIME OF SELF-GOVERNMENT.

ARTICLE 16. FOR EVERY TWO DAYS OF WORK, ONE DAY OF
PRISON SHALL BE REMITTED, AS LONG AS THE PRISONER OBSERVES
GOOD CONDUCT, PARTICIPATES REGULARLY IN THE EDUCATIONAL
ACTIVITIES ORGANIZED WITHIN THE ESTABLISHMENT, AND
OTHERWISE DEMONSTRATES EFFECTIVE SOCIAL READAPTATION.
THIS SHALL BE, IN EVERY CASE, THE DETERMINING FACTOR
FOR THE CONCESSION OR DENIAL OF PARTIAL REMISSION OF THE
SENTENCE, WHICH MAY NOT BE BASED EXCLUSIVELY ON THE DAYS
OF WORK, IN THE PARTICIPATION IN EDUCATIONAL ACTIVITIES
AND IN THE GOOD CONDUCT OF THE CONVICT.

REMISSION SHALL FUNCTION INDEPENDENTLY OF PREPARATORY
FREEDOM (LIBERTAD PREPARATORIA), PERIODS OF WHICH SHALL
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BE GOVERNED EXCLUSIVELY BY THE SPECIFIED PERTINENT NORMS.
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